



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 32942380

Date: SEP. 19, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a delivery practice manager in data analytics, seeks classification as an individual of extraordinary ability. Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand this matter for the entry of a new decision consistent with the following analysis.

I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of a beneficiary's achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that a beneficiary meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a delivery practice manager for [REDACTED] a multi-billion-dollar information technology company that provides cloud computing products and services. Her position entails the use of artificial intelligence and machine learning to interpret large quantities of data to identify patterns that companies use for data analysis, as well as holding responsibility for technical guidance and the ultimate delivery of projects. The Petitioner intends to continue her work in data analytics in the United States.

Because the Petitioner has not indicated or shown that she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Director determined that the Petitioner met one of the criteria she claimed to have satisfied: her participation as a judge of the work of others within her field. *See* 8 C.F.R. § 204.5(h)(3)(iv). The record supports that determination. However, the Director concluded the Petitioner did not establish that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (v), (vi), (viii), or (ix). On appeal, the Petitioner asserts that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(v), (vi), (viii), and (ix), and she contends that the Director incorrectly evaluated supporting evidence. Upon review, we conclude that the Petitioner has met the criteria at 8 C.F.R. § 204.5(h)(3)(iv), (viii), and (ix).

Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner does not dispute the Director's conclusion regarding this criterion on appeal. Therefore, we deem this issue to be waived, and we will not address this criterion further. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. at 767 n.2.

Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner asserts that she has performed in leading and critical roles for establishments that have distinguished reputations, including [REDACTED]. The record demonstrates that these are multi-billion-dollar companies in the fields of cloud computing and energy production, respectively. While the Director did not dispute the reputations of these businesses, they determined that the record did not establish that the Petitioner's role "has been leading or critical to [REDACTED] as a whole, beyond the

organization’s need for skillful, highly competent” data practice managers, and that her work “on various projects is inherent to her occupation.” We note that, in evaluating whether an individual has performed in a leading role, we look at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof. For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities or those of a division or department of the organization or establishment.¹

Here, the Petitioner has submitted documentation of an award she received for her leadership on an effort to provide a tailored list of offerings for the [] sales team to present to public sector customers during the upcoming year. The Petitioner also submitted documentation describing her critical role in managing a portfolio of \$50 million for a division of [] that delivers data analytics solutions to public sector clients, primarily for state and local governments and higher education institutions. She also submitted evidence concerning various projects in which she was involved, including media coverage of those projects, and several detailed letters of support from superiors and colleagues discussing both her leading and critical roles in projects for [] and for previous employers. For example, at [] the Petitioner led a team on a ninety-seven-million-dollar project to expand the [] online learning programs to working adults, military members, and students from underserved counties in the state. As another example, she served as [] technical leader for a project involving the movement of the [] data to the cloud. And while employed at [] she led the migration process of critical data and applications to a cloud-based platform, the design of which minimized operational disruptions and resulted in significant cost savings and improved efficiency within the organization. We conclude that the Petitioner has submitted sufficient evidence that meets the requirements of 8 C.F.R. § 204.5(h)(3)(viii).

Evidence that the individual has commanded a high salary or other significantly high remuneration for services in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

In denying the petition, the Director acknowledged the Petitioner’s submission of financial documents and webpages showing salaries for data practice managers employed by []. The Director determined that the Petitioner’s earnings of approximately \$254,000 in 2022 were not higher than the highest reported salary for others in her field at [] which was approximately \$288,000. We note that the plain language of the criterion does not limit an individual’s relative salary or remuneration to others’ earnings from a particular employer but, instead, refers only to the earnings of others within the individual’s field. The Petitioner initially submitted documentation showing salary ranges for other big data analysts working for several companies, including IBM and Apple, which offered the highest salaries at \$152,000 and \$189,000 per year, respectively—a difference of about \$102,000 and \$65,000 from her 2022 earnings. In addition, on appeal, the Petitioner points to her receipt of restricted stock units, which includes shares she received in 2021 valued at approximately \$33,152 and stock in 2023 valued at approximately \$75,599. The Petitioner also submitted wage information from O*NET—the U.S. Department of Labor’s Occupation Information Network—which demonstrates that she has commanded a high salary or other significantly high remuneration for services in relation

¹ See generally <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

to others in the field. Based on a preponderance of the evidence, we conclude that the Petitioner has met the requirements of 8 C.F.R. § 204.5(h)(3)(ix).

III. CONCLUSION

The Petitioner has met the requisite three of ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(iv), (viii), and (ix). We therefore need not consider whether she met additional claimed criteria at 8 C.F.R. § 204.5(h)(3)(v) or (vi).

We will withdraw the Director's denial of the petition and remand the matter for further review and entry of a new decision. The Director may request any additional evidence considered pertinent to the new determination and any other issues. As such, we express no opinion regarding the ultimate resolution of this matter on remand. On remand, the Director should conduct a final merits review of the evidence of record. The new decision should include an analysis of the totality of the evidence evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim, her status as one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.